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DOC #:
DATE FILED: 1/26/2023

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA,

- against -

JOSE ENRIQUE SANTIAGO,

Defendant.

00 CR 0237 (VM)

ORDER

VICTOR MARRERO, United States District Judge.

The Court is in receipt of defendant Jose Enrique Santiago's Motion for Voluntary Dismissal Without Prejudice Pursuant to Federal Rule of Civil Procedure 41(a)(1)(i) (see Dkt. No. 690), dated January 17, 2023, regarding Santiago's Motion for Compassionate Release Pursuant to 18 U.S.C. § 3582(C)(1)(A)(i) (see Dkt. No. 684), dated July 27, 2022.

As an initial matter, the Court notes that an 18 U.S.C. § 3582(c) motion is considered a continuation of the prior criminal proceeding, unlike other forms of post-conviction proceedings, such as habeas corpus proceedings. U.S. v. Arrango, 291 F.3d 170, 171-72 (2d Cir. 2002). Accordingly, the Court will construe Santiago's Motion for Voluntary Dismissal Without Prejudice as not limited to Federal Rule of Civil Procedure 41(a)(1)(i). As construed, Santiago's Motion for Voluntary Dismissal Without Prejudice is GRANTED, and the

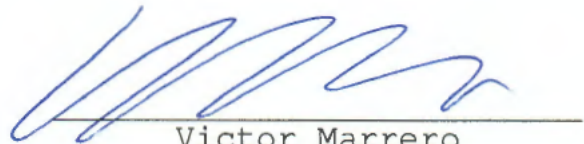
Court hereby dismisses Santiago's Motion for Compassionate Release without prejudice.

Additionally, the Court denies Santiago's Motion for the Appointment of Counsel Pursuant to 18 U.S.C. § 3006(a)(2) (see Dkt. No. 684), dated January 17, 2023, as moot in light of the dismissal of Santiago's Motion for Compassionate Release. The Court notes that even if the Motion for the Appointment of Counsel was not moot, the request would be denied because, as relevant here, 18 U.S.C. § 3006(a)(2) only authorizes representation of persons who are "seeking relief under section 2241, 2254, or 2255 of title 28."

The Court Clerk is respectfully directed to mail a copy of this Order, as well as the Court's January 23, 2023 Order (see Dkt. No. 689) to defendant Jose Enrique Santiago, Reg. No. 49019-054, FCI Berlin, Federal Correctional Institution, P.O. Box 9000, Berlin N.H. 03570. The Court Clerk is further respectfully directed to terminate the pending motions at Dkt. Nos. 684 and 690.

SO ORDERED.

Dated: 26 January 2023
New York, New York



Victor Marrero
U.S.D.J.